

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, OCTOBER 14, 2015 – 6:30 P.M.  
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA**

		Cumulative Attendance 6/2015 through 5/2016	
Board Members	Attendance	Present	Absent
Karl Shallenberger, Chair	P	4	0
Sharon A. Zamojski, Vice Chair	A	2	2
Roger Bond	P	3	1
Andrew Gordon	P	4	0
Douglas Reynolds	P	1	
Fred Stresau	P	3	1
S. Carey Villeneuve	P	4	0
Alternates			
Eugenia Ellis	P	3	1
Birch Willey	A	3	1

**Staff**

Robert Dunckel, Assistant City Attorney  
Anthony Fajardo, Zoning Administrator  
Mohammed Malik, Chief Zoning Examiner  
Lynda Crase, Board Liaison  
Brigitte Chiappetta, Recording Secretary, Prototype Inc.

**Communication to the City Commission**

None.

**Purpose: Section 47-33.1.**

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

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<u>Case</u>		<u>District</u>	<u>Page</u>
<u>Number</u>	<u>Applicant/Agent</u>		
1.	<b>B15012</b> LAS OLAS BY SEABREEZE LP/ Hope W. Calhoun	<b>2</b>	<u><b>2</b></u>
2.	<b>B15018</b> JOSEPH & AMANDA SAFINA, JOSEPH SAFINA TR	<b>4</b>	<u><b>4</b></u>
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Board members disclosed communications they had and site visits made regarding items on the agenda.

All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.

### **Call to Order**

Chair Shallenberger called the meeting to order at 6:31 p.m. He introduced Board members and determined a quorum was present.

### **Approval of Minutes – September 2015**

**Motion** made by Mr. Stresau, seconded by Ms. Ellis, to approve the minutes of the Board's September 2015 meeting. In a voice vote, motion passed unanimously.

1.

**Case Number:** B15012 (**Motion for Rehearing**)  
**Owner:** **LAS OLAS BY SEABREEZE LP**  
**Agent:** Hope W. Calhoun, Esq.  
**Applicant:** Monica Angulo  
**Legal:** LOTS 6 & 7, OF SUBDIVISION LAS OLAS BY THE SEA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 6, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA  
**Zoning:** PRD (Planned Resort Development District)  
**Address:** 2915 E Las Olas Blvd.  
**Commission District:** 2  
**Appealing:** **Section 5-26(b) (Distance between establishments)**

Requesting a Special Exception to allow the sale of alcohol by a new restaurant at a distance of 212 feet from other establishments that sell alcohol where the code states that a restaurant bar is prohibited in any place of business located within three hundred (300) feet of another place of business in which there is already in existence a retail vendor's license to sell alcoholic or intoxicating beverages for consumption on or off premises.



**(REHEARING ITEM FROM JULY 8, 2015 / REHEARING REQUEST APPROVED  
SEPTEMBER 9, 2015)**

Hope Calhoun, attorney for the applicant, submitted a petition in support of the restaurant, "I Love Tacos", with over 100 signatures.

Mr. Dunckel reminded the Board that this was a special exception request, which required the applicant to prove the request was not contrary to the public interest.

Ms. Calhoun said this was in an area that encouraged pedestrian activity; the property had a Regional Activity Center (RAC) land use designation and Planned Resort Development (PRD) zoning designation. The RAC land use designation was intended to encourage development or redevelopment of areas of regional significance, to encourage the reduction of automobile travel and to give definition to the urban form.

Ms. Calhoun continued that this building was currently vacant and they would put it to an active use. The purpose of the PRD was to promote development and redevelopment through high quality public and private mixed uses. She noted that the trend along Las Olas was restaurants, entertainment establishments and bars next to each other.

Ms. Calhoun stated the requirement for a special exception was that the request not be contrary to the public interest. Las Olas, with the RAC and PRD designations, catered to entertainment and tourists.

Chair Shallenberger opened the public hearing.

Shirley Smith, resident of the nearby Venetian Condominium, asked if this would be a restaurant or a bar and if there would be loud music. She also wanted to know the hours of operation and parking situation. Ms. Calhoun stated this would be a sit-down restaurant that would offer cocktails. She said there were an abundance of parking spaces nearby. Hours of operation would be until 9 p.m. from Sunday through Thursday and until 11 p.m. Friday and Saturday, serving lunch and dinner. Ms. Calhoun said her client agreed to make the hours of operation a condition of the special exception.

Jack Newton, nearby resident, asked the applicant to consider the neighbors' desire for quiet enjoyment of their properties. He asked Ms. Calhoun to present this to the affected homeowners associations. Mr. Newton believed that an adjacent, City-owned parcel would someday become a park and he did not feel that alcohol should be served next to a park. He also believed that the restaurant would request later hours in the future. Mr. Newton asked the Board to deny the request.

Ms. Calhoun reiterated that the zoning and land use encouraged this type of development and this would be a sit-down, family-friendly restaurant where the alcohol would be sold for consumption on the premises.

Monica Angulo, owner of I Love Tacos, said the bar was a counter for serving food and cocktails. This counter would seat 12 people; there were also 30 tables to seat two to four people each. Mr. Dunckel informed everyone that the sale of alcohol must be incidental to the sale of food; if the restaurant exceeded this, it would lose the special exception.

There being no other members of the public wishing to address the Board on this item, Chair Shallenberger closed the public hearing and brought the discussion back to the Board.

Mr. Villeneuve recalled that the Board had not required "I Love Cuba" to stipulate hours of operation when its special exception was granted and he was not in favor of doing so for I Love Tacos.

**Motion** made by Mr. Stresau, seconded by Ms. Ellis to approve as presented, without the stipulation regarding hours of operation. In a roll call vote, motion passed 7-0.

<b>2. Case Number:</b>	B15018
<b>Owner/Applicant:</b>	JOSEPH & AMANDA SAFINA, JOSEPH SAFINA TR
<b>Legal:</b>	RIO VISTA ISLES UNIT 3 7-47 B LOT 14 N 49,15,16,17 LESS BEG SECOR LOT 18 S 25,NWLY TO SW COR OF LOT 18,ELY TO POB BLK 29
<b>Zoning:</b>	RS-8 - Residential Single Family/Low Medium Density
<b>Address:</b>	1517 Ponce De Leon Drive
<b>Commission District:</b>	4

**Appealing: Section 47-19.5. (Fences, walls and hedges)**

Requesting a variance to permit an aluminum fence with columns at a height of 6-feet on the front property line where the code states any wall or fence that exceeds 4-feet 4-inches in height and is below a minimum of 75% transparent must be setback an average of 3-feet from the front property line along a street.

Mr. Fajardo distributed a list of the applicant's response to the five hardship criteria.

Dane Meyer, representing the applicant, explained they wished the new fence section to match the existing fencing height. He explained that a vehicle exited the property at a sharp right angle and there was a banyan tree that was not cut back and this required reducing the column height for visibility. Mr. Meyer stated to make the property uniform,



they needed to extend the current wall or bring the other wall back to meet the three-foot setbacks, which could cost \$65,000 to \$75,000.

Chair Shallenberger opened the public hearing.

Joseph Safina, owner, said the adjacent neighbors had applied for and received a similar variance. He stated "every other house on the block actually has it on the streetline" and it would look odd if his fence were set back five feet. Mr. Meyer submitted photos of nearby properties.

Mr. Dunckel noted the three-foot setback had not always been in the code; he estimated it had come into effect in approximately 2000. He said Mr. Meyer should not assume that neighbors' fences had variances.

Mr. Stresau said the intent was to replace an ordinance that allowed a fence or wall to be constructed on the property line or up to the sidewalk edge. In 2000, the ordinance had been changed to require fences and walls to be set back three feet and Mr. Stresau had recommended stating the fence should "average" a three-foot setback so that some sections could be closer to the sidewalk. They had also considered percentage of openings, so a more open fence could be placed closer to the sidewalk than a solid wall.

Mr. Dunckel said the code required that if there was a hardship, the *minimum* variance should be granted. This would allow Mr. Safina to move small portions closer to the property line. He added that property uniformity was not part of the code.

Mr. Safina explained that in order to have a functional vehicle gate and a pedestrian gate on the second driveway, they would need to move it back 12 feet into the property.

Mr. Bond pointed out they had not discussed the height of the fence. Mr. Meyer said the current code allowed a height of 4' 4" with zero setback and they wanted a six-foot fence at zero setback. He explained this was an aluminum fence with columns. The gate would be 5' 10".

There being no other members of the public wishing to address the Board on this item, Chair Shallenberger closed the public hearing and brought the discussion back to the Board.

Mr. Villeneuve noted the high transparency of the fence. He opposed walled-in compounds but this was very different. Mr. Villeneuve wanted to be sure that if this were granted it would not become the basis for allowing a wall.

Mr. Stresau said they had invested months in re-writing the fence ordinance. He said this fence was not really transparent because it was designed as a knee wall with

additional metal work above. Mr. Stresau said there were approximately 20 walls on Ponce De Leon and the majority of them had landscape area between the sidewalk and the wall or fence. He therefore did not feel this must be approved for consistency. The owner could add section in the front to mimic the existing wall and then set it back six feet to average the proper setback.

**Motion** made by Mr. Stresau, seconded by Ms. Ellis, to approve. In a roll call vote, motion failed 4-3 with Mr. Stresau, Mr. Bond and Mr. Reynolds opposed.

**Other Items and Board Discussion**

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None.

**Report and for the Good of the City**

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None.

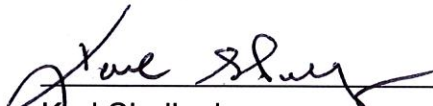
**Communication to the City Commission**

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None.

There being no further business to come before the Board, the meeting was adjourned at 7:26 pm.

Chair:

  
Karl Shallenberger

Attest:

  
ProtoType Inc.

Minutes prepared by: J. Opperee, Prototype Inc.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.